

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 267 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
Nos. 1 to 5 No

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HEIRS OF VADHURAM GORDHANDAS KANTABEN VADHURAM WD/O DECEASE

Versus

MAHENDRAKUMAR BABUBHAI BAGDAR

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Appearance:

MR DU SHAH for Appellant

MR SURESH M SHAH for Respondent No. 1

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 17/09/97

ORAL JUDGEMENT

This Appeal is directed against the order dated 7.7.1989 passed by the learned Civil Judge (SD), Rajkot rejecting the interim injunction application in Special Civil Suit No. 78 of 1989.

2. The suit filed by the Appellant-Plaintiff is for specific performance of the suit agreement, and therefore, the plaintiff prayed for interim injunction

restraining the defendant from transferring the suit property. The Trial Court dismissed the said application, but while admitting the present Appeal this Court did grant ad-interim injunction restraining the defendant from transferring the suit property. The said injunction has been continuing since 1989. It would, therefore, be just and proper to continue the said interim relief till disposal of the suit and to direct the Trial Court to hear the suit at the earliest as it is pending since 1989.

3. It is clarified that the interim injunction is continued till disposal of the suit only on account of the fact that it has already been operating since 1989, and the suit is directed to be decided at the earliest. The Trial Court shall, therefore, decide the suit in accordance with law without being influenced by the interim order passed during pendency of the Appeal or by the fact that it is being continued till disposal of the suit.

4. The Appeal is accordingly disposed of with a direction that the interim relief granted by this Court in Civil Application No. 1664 of 1989 shall continue till disposal of the suit. The Trial Court shall hear and decide the suit as expeditiously as possible, preferably by Marchy 31,1998.

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m.m.bhatt